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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

MICHAEL C. FISHER, D.D.S.,	FINAL DECISION AND ORDER
RESPONDENT.	(LS 9909141 DEN)

Division of Enforcement
97 DEN 069

The parties to this proceeding for purposes of sec. 227.53, Stats., are:

*Michael C. Fisher, D.D.S.
4107 Norwegian Hollow Road
Dodgeville, WI 53533*

*Wisconsin Dentistry Examining Board
1400 E. Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935*

*Department of Regulation And Licensing
Division of Enforcement
1400 E. Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935*

The Wisconsin Dentistry Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Michael C. Fisher, D.D.S., personally, and by his attorney, W. Patrick Sullivan, and by Gilbert C. Lubcke, attorney for the Department of Regulation And Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Dentistry Examining Board makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Michael C. Fisher, D.D.S., 4107 Norwegian Hollow Road, Dodgeville, Wisconsin, 53533, was born on 12/2/57 and has been licensed and registered to practice dentistry in the state of Wisconsin since 9/25/90, license #4191.
2. Dr. Fisher is engaged in the practice of general dentistry.
3. C.H., the patient herein, was born on 7/6/46 and was Dr. Fisher's patient from 9/9/91 through 1/25/95.

COUNT I

4. On 4/9/94, the patient presented at Dr. Fisher's office with a fractured buccal cusp on tooth #13. Dr. Fisher

treated the patient's condition by placing a MODB alloy restoration but did not utilize any accepted dental techniques for improving the retention of the restoration.

5. The MODB alloy restoration in tooth #13 became loose and fell out on or about 7/16/94.

6. Dr. Fisher's failure on 4/9/94 to use accepted dental techniques to improve the retention of the MODB alloy restoration in tooth #13 was a substantial departure from the standard of care ordinarily exercised by a dentist.

7. Dr. Fisher's failure to use accepted dental techniques to improve the retention of the MODB alloy restoration in tooth #13 created the unacceptable risks that the restoration would loosen and permit organisms to enter under the restoration promoting the development of dental caries under the restoration, and that the restoration would fall out prematurely.

COUNT II

8. On 4/9/94, the patient presented at Dr. Fisher's office with a fractured buccal cusp on tooth #13. Dr. Fisher treated the patient's condition by placing a MODB alloy restoration. This restoration had large overhangs which were identifiable on a periapical x-ray of tooth #13 taken by Dr. Fisher on or about 5/28/94.

9. Dr. Fisher failed at the time he placed the MODB alloy restoration in tooth #13 and again when he took the periapical x-ray of tooth #13 on or about 5/28/94 to identify the large overhangs associated with the restoration.

10. Dr. Fisher failed to take any action to correct the overhangs associated with the MODB alloy restoration in tooth #13.

11. Dr. Fisher's failure to identify the overhangs on the MODB alloy restoration in tooth #13 on or before 5/28/94, his failure to develop a treatment plan on or about 5/28/94 to address the overhangs, and his failure to correct the overhangs were a substantial departure from the standard of care ordinarily exercised by a dentist.

12. Dr. Fisher's failure to identify the overhangs on the MODB alloy restoration in tooth #13 on or before 5/28/94, his failure to develop a treatment plan on or about 5/28/94 to address the overhangs and his failure to correct the overhangs created the unacceptable risks that the patient's ability to maintain good oral hygiene at the site of the overhangs would be compromised resulting in the development of periodontal disease or the exacerbation of existing periodontal disease with the potential loss of bone structure and the ultimate loss of involved teeth.

COUNT V

13. On or about 5/28/94 or 5/29/94, Dr. Fisher performed a periodic dental examination of the patient. At the time of this examination, Dr. Fisher failed to diagnose and treat dental caries on the distal aspect of tooth #9.

14. Dr. Fisher's failure on or about 5/28/94 or 5/29/94 to diagnose dental caries on the distal aspect of tooth #9, his failure to develop a treatment plan on 5/28/94 or 5/29/94 to address the dental caries, and his failure to treat the dental caries on the distal aspect of tooth #9 were a substantial departure from the standard of care ordinarily exercised by a dentist.

15. Dr. Fisher's failure on or about 5/28/94 or 5/29/94 to diagnose dental caries on the distal aspect of tooth #9, his failure to develop a treatment plan to address the dental caries and his failure to treat the dental caries created the unacceptable risks that there would be a progression of the dental caries resulting in increased loss of tooth structure with weakening of the tooth jeopardizing the stability of subsequently placed restorations and that the dental caries would invade the pulp chamber of the tooth necessitating additional dental procedures including root canal therapy.

COUNT VI

16. On 2/22/92, Dr. Fisher obtained a bitewing x-ray that showed substantial dental caries on tooth #12. On 7/18/92, Dr. Fisher commenced treatment of tooth #12. He determined at that time that there was direct pulp communication due to the dental caries and recommended root canal therapy. On 7/18/92, he performed a pulpotomy/pulpectomy on tooth #12 and placed a formo cresol pellet in tooth #12.

17. Dr. Fisher failed to complete the root canal therapy on tooth #12 in a timely fashion in that he did not complete the root canal therapy until 11/26/94.

18. Dr. Fisher's failure to complete the root canal therapy on tooth #12 in a timely fashion was a substantial

departure from the standard of care ordinarily exercised by a dentist.

19. Dr. Fisher's failure to complete the root canal therapy on tooth #12 in a timely fashion created the unacceptable risk that the patient would develop an infection in the tooth or that an existing infection would persist resulting in bone loss and the potential loss of involved teeth.

COUNT IX

20. On 9/10/91, Dr. Fisher excavated dental caries in tooth #18, identified pulp involvement and located the distal, mesial buccal and mesial lingual canals. On 9/10/91, he performed a pulpotomy on tooth #18 and placed a formo cresol pellet in the tooth. Dr. Fisher recommended to the patient that root canal therapy be performed on tooth #18.

21. On 9/22/93, Dr. Fisher, with the patient's consent, performed the root canal therapy on tooth #18.

22. On 9/22/93, Dr. Fisher intentionally falsely recorded in the patient's record that he had completed root canal therapy on tooth #18, that he had instrumented three canals to lengths of 23.0 mm for the distal canal, 21.5 mm for the mesial lingual canal and 22.0 mm for the mesial buccal canal and that he had filled each of the three canals with gutta percha.

23. In truth and in fact, Dr. Fisher instrumented only the distal canal of tooth #18 and filled only the distal canal with gutta percha. Dr. Fisher did not fully instrument the mesial lingual canal or the mesial buccal canal and did not fill either of these canals with gutta percha.

CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction in this proceeding pursuant to sec. 447.07, Stats.
2. The Wisconsin Dentistry Examining Board has the authority to resolve this disciplinary proceeding by stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.
3. Dr. Fisher's conduct as described in paragraphs 4 through 7 of the Findings of Fact was unprofessional conduct contrary to sec. 447.07(3)(a), Stats. and Wis. Admin. Code sec. DE 5.02(5) in that he practiced in a manner which substantially departed from the standard of care ordinarily exercised by a dentist which harmed or could have harmed a patient.
4. Dr. Fisher's conduct as described in paragraphs 8 through 12 of the Findings of Fact was unprofessional conduct contrary to sec. 447.07(3)(a), Stats. and Wis. Admin. Code sec. DE 5.02(5) in that he practiced in a manner which substantially departed from the standard of care ordinarily exercised by a dentist which harmed or could have harmed a patient.
5. Dr. Fisher's conduct as described in paragraphs 13 through 15 of the Findings of Fact was unprofessional conduct contrary to sec. 447.07(3)(a), Stats. and Wis. Admin. Code sec. DE 5.02(5) in that he practiced in a manner which substantially departed from the standard of care ordinarily exercised by a dentist which harmed or could have harmed a patient.
6. Dr. Fisher's conduct as described in paragraphs 16 through 19 of the Findings of Fact was unprofessional conduct contrary to sec. 447.07(3)(a), Stats. and Wis. Admin. Code sec. DE 5.02(5) in that he practiced in a manner which substantially departed from the standard of care ordinarily exercised by a dentist which harmed or could have harmed a patient.
7. Dr. Fisher's conduct as described in paragraphs 20 through 23 of the Findings of Fact was unprofessional conduct contrary to sec. 447.07(3)(a), Stats. and Wis. Admin. Code sec. DE 5.02(7) in that he intentionally falsified patient records.
8. The Wisconsin Dentistry Examining Board has the authority pursuant to sec. 440.22, Stats., to assess the costs of this proceeding against Dr. Fisher.

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that Michael C. Fisher's license #4191 is suspended for a period of 6 months commencing 90 days after the effective date of this Order. Dr. Fisher may petition the Dentistry Examining Board

for stays of the suspension. The Dentistry Examining Board will grant Dr. Fisher's petition for a stay of the suspension if Dr. Fisher is in compliance with all of the terms of this Order. If Dr. Fisher petitions for a stay of the suspension, he will appear before the Dentistry Examining Board at a regularly scheduled meeting of the Dentistry Examining Board to demonstrate that he is in compliance with this Order. Each stay of the suspension will extend from the date of the regularly scheduled meeting of the Dentistry Examining Board at which Dr. Fisher's petition for a stay of the suspension is considered until the date of the next regularly scheduled meeting of the Dentistry Examining Board.

IT IS FURTHER ORDERED that Michael C. Fisher's license to practice dentistry in the state of Wisconsin is limited under the following terms and conditions:

1. Dr. Fisher will not engage in the private practice of dentistry for a period of 90 days from the effective date of this Order. Dr. Fisher may continue to practice dentistry to the extent that it is necessary to comply with the education program administered by the Marquette University School of Dentistry.
2. Dr. Fisher will participate in an education program administered by the Marquette University School of Dentistry under the supervision of William K. Lobb, D.D.S., Dean of the Marquette University School of Dentistry. This education program will be developed and structured as follows:
 - a. The Marquette University School of Dentistry will conduct an assessment of Dr. Fisher's skills and knowledge in the areas of treatment planning, restorative dentistry, including the diagnosis and treatment of dental caries, and endodontics, including root canal therapy. The purpose of the assessment is to assist the Marquette University School of Dentistry in developing an education program for Dr. Fisher which addresses each of these aspects of dental practice. The Marquette University School of Dentistry may require Dr. Fisher to produce a specified selection of his patient records, with adequate precautions taken to protect patient confidentiality, to assist in this assessment. The Marquette University School of Dentistry may also utilize records and other documents from the investigative file compiled by the Department of Regulation and Licensing, Division of Enforcement in support of this disciplinary action to assist with the assessment. The assessment will be completed within 30 days of the effective date of this Order.
 - b. The Marquette University School of Dentistry will develop an education program which will include components in treatment planning, restorative dentistry and endodontics within 30 days of completion of the assessment and will submit the proposed education program to the Dentistry Examining Board or its designee for approval prior to implementation of the education program. The education program may consist of academic instruction, clinical instruction or both. If the Marquette University School of Dentistry is unable to develop an education program for Dr. Fisher, the Marquette University School of Dentistry will so notify the Wisconsin Dentistry Examining Board and this matter will be returned to the Division of Enforcement for further proceedings.
 - c. Dr. Fisher will commence the treatment planning component and the restorative dentistry component of the education program prior to or simultaneously with the endodontics component of the education program. Dr. Fisher will satisfactorily complete the treatment planning component and the restorative dentistry component of the education program within 18 months of the effective date of this Order. Dr. Fisher will satisfactorily complete the endodontics component of the education program within 24 months of the effective date of this Order.
 - d. Dr. Fisher will take and pass oral and written evaluations administered by the Marquette University School of Dentistry in each of the components of the education program.
 - e. Upon satisfactory completion of the treatment planning component and the restorative dentistry component of the education program and of the oral and written evaluations related to these components, the Marquette University School of Dentistry will certify satisfactory completion of these components of the education program to the Dentistry Examining Board.
 - f. Upon satisfactory completion of the endodontics component of the education program and of the oral and written evaluations related to this component, the Marquette University School of Dentistry will certify satisfactory completion of this component to the Dentistry Examining Board.
 - g. Dr. Fisher will be responsible for the full costs of the assessment, the education program and the evaluations and will make payment to the Marquette University School of Dentistry in accordance with the payment schedule established by the Marquette University School of Dentistry.
3. Dr. Fisher will not engage in the practice of endodontics in his private practice until he has satisfactorily completed the treatment planning, restorative dentistry and endodontics components of the education program and the Dentistry Examining Board has removed this limitation on his license. If Dr. Fisher fails to satisfactorily complete the endodontics component of the education program within 24 months of the effective date of this Order, his license will be permanently limited, without further

notice or hearing, to prohibit him from engaging in the practice of endodontics.

4. Dr. Fisher's practice will be monitored for a period of 1 year from the date on which the Dentistry Examining receives certification from the Marquette University School of Dentistry that Dr. Fisher has satisfactorily completed the treatment planning component and the restorative dentistry component of the education program or for 6 months beyond the date on which the Dentistry Examining Board receives certification from the Marquette University School of Dentistry that Dr. Fisher has satisfactorily completed the endodontics component of the education program or for 6 months after Dr. Fisher's license has been permanently limited to prohibit the practice of endodontics, whichever period of monitoring is of greatest duration. The Dentistry Examining Board will select the person to perform the monitor function. The monitoring will be accomplished by review of Dr. Fisher's dental records including but not limited to treatment records, dental x-rays, consultation reports, billing records and insurance claim forms for patients examined or treated by Dr. Fisher within the 3 months preceding the date of the review. The monitor function and record review will be conducted every 3 months commencing 3 months after the Dentistry Examining Board receives the certification from the Marquette University School of Dentistry that Dr. Fisher has satisfactorily completed the treatment planning component and the restorative dentistry component of the education program. Dr. Fisher will maintain a list of all patients examined or treated by him in the 3 months preceding each review and brief descriptions of the presenting dental problems and the treatments administered to each patient. Dr. Fisher will provide this list to the person performing the monitor function within a reasonable period of time prior to the record review to permit him or her to select from the list the patient records to review. The review will also include a discussion between the person reviewing the records and Dr. Fisher of the diagnoses and treatments rendered by Dr. Fisher in each of the cases reviewed. The person reviewing the records will file a report with the Dentistry Examining Board following each review of the records describing the results of the review. Dr. Fisher will pay the full costs of the monitor function including the professional fees of the person selected by the Dentistry Examining Board to perform the monitor function. Dr. Fisher will make payment in full of the fees associated with the monitor function within 30 days of the date on which the person performing the monitor function submits a statement for professional services and expenses.

5. All certifications, reports or other documents required to be filed with the Dentistry Examining Board under the terms of this limited license will be filed with:

Department Monitor

Department of Regulation and Licensing

Division of Enforcement

P.O. Box 8935

1400 East Washington Ave.

Madison, WI 53708-8935

All certifications, reports or other documents required to be filed with the Dentistry Examining Board under the terms of this limited license will be deemed filed with the Dentistry Examining Board upon receipt by the Department Monitor.

IT IS FURTHER ORDERED that Michael C. Fisher, D.D.S., will pay the costs of this proceeding in the amount of \$2000.00 to the Department of Regulation and Licensing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin, 53708-8935 within 90 days of the effective date of this Order.

IT IS FURTHER ORDERED that Michael C. Fisher, D.D.S. will appear before the Dentistry Examining Board, as the Dentistry Examining Board directs, after the education program and the monitor function have been completed to demonstrate to the Dentistry Examining Board full compliance with all of the terms of this Order. If Dr. Fisher has fully complied with the terms of this Order and Dr. Fisher has satisfied all other requirements for licensure, the Dentistry Examining Board will reinstate a full and unrestricted license.

IT IS FURTHER ORDERED that Counts III, IV, VII and VIII are dismissed.

IT IS FURTHER ORDERED that this Order is effective 30 days from the date upon which this Final Decision and Order is signed by the Dentistry Examining Board.

The rights of a party aggrieved by this Final Decision And Order to petition the Wisconsin Dentistry Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin, this 5th day of January, 2000.

WISCONSIN DENTISTRY EXAMINING BOARD

Mark Curran, D.D.S.

Member, Wisconsin Dentistry Examining Board